

PERAC TO HOLD PUBLIC HEARINGS ON REFORM COMMITTEE REPORT



During September, PERAC will hold four hearings across the state to solicit feedback regarding the recently issued *Reform Initiatives Advisory Committee Report*. Interested parties can download a PDF copy of the report at www.mass.gov/perac.

The report is the result of six months of effort by an Advisory Committee of governance and public affairs professionals chaired by former Massachusetts Attorney General, Scott Harshbarger. The Committee's purpose was to explore possible initiatives to enhance PERAC's ability to carry out its Legislative mandate to oversee the 106 Massachusetts retirement systems.

Schedule of Public Hearings

- **Wednesday, Sept. 14, 2005**

9:30 am - 11:30 am
PERAC Training Room
5 Middlesex Avenue, 3rd Floor
Somerville, MA 02145

- **Thursday, Sept. 15, 2005**

1:30 pm - 3:30 pm
Assumption College
500 Salisbury Street
at the LaMaison Francaise
Building #1
Worcester, MA 01609

- **Wednesday, Sept. 21, 2005**

10:00 am - 12 noon
City Council Chambers
Springfield City Hall
36 Court Street
Springfield, MA 01103

- **Wednesday, Sept. 28, 2005**

9:30 am - 11:30 am
The Otto Fehlow Room
Plymouth Public Library
132 South Street
Plymouth, MA 02360

Interested persons are encouraged to attend any or all of these hearings. Directions to all of the locations can be found on the PERAC Web site, www.mass.gov/perac. Written comments will be accepted through October 12, 2005 and should be sent to PERAC, 5 Middlesex Avenue, 3rd Floor, Somerville, Massachusetts 02145.

STATUTORY COMPLIANCE CONFLICTS

Two recent cases have required retirement boards to strictly comply with the requirements of Chapter 32, even where the boards strongly disagreed with the result of such compliance. In *Revere Retirement Board v. Contributory*

Retirement Appeal Board et al., the Appeals Court ruled that "notwithstanding the [Revere Retirement's Board's] righteous indignation that [the member] should be entitled to the payment of any
(Continued on page 2)

Also In This Issue

- National Public Pension Publicity Summary
- PERAC Commissioner Marquis' Public Service Acclaimed in *Boston Globe*

Public Employee Retirement Administration Commission

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Somerville, MA 02145
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- The Honorable Domenic J. F. Russo
Chairman
- The Honorable A. Joseph DeNucci
Auditor of the Commonwealth
Vice Chairman
- Henry G. Brauer
Investment Professional
- Kenneth J. Donnelly
Lieutenant
Lexington Fire Department
- Eric Kriss
Secretary
Executive Office of Administration
and Finance
- James M. Machado
Sergeant
Fall River Police Department
- Donald R. Marquis
Former Town Manager
Arlington
- Joseph E. Connarton
Executive Director



STATUTORY (CONT.)

(From page 1)

benefits from [the board],” the board had no authority to modify a member’s retirement allowance.

The board had sought to reduce a disability retiree’s allowance because it believed he was hiding assets and underreporting income. The Court ruled that there was insufficient evidence of such activities and that only PERAC had authority to modify retirement allowances under G.L. c. 32, § 8(3).

In *Brockton Retirement Board v. PERAC et al.*, a Permanent Injunction was issued requiring the board to properly account for the retirement deductions of a police officer who was returned to service after a disability retirement. The Brockton Retirement Board disagreed with the restoration to service process and refused to make this individual a member in service of its system. The Court, in granting the injunction, ruled that the board had little likelihood of prevailing on the merits and probably violated the provisions of G.L. c. 32, § 8(1) by its actions. Recognizing the extremely limited role of the boards in restoration to service, the Court directed the board to take immediate actions to restore the officer to member in service status.

The Commission recognizes that board members occasionally feel a conflict between complying with the statute and their fiduciary duties. These decisions clearly indicate that, where the boards disagree with the statute, the proper remedy is with the Legislature rather than through unilateral action.

NATIONAL PUBLIC PENSION PUBLICITY SUMMARY

Possible investment topics considered for this edition of *PERAC Pension News* included whether the stock market will emerge from its year-long doldrums, how much further the Fed will tighten and how will long-term interest rates react, whether the frothy real estate market might be peaking, and whether hedge funds will emerge from their current period of low returns.

However, since several of the nation’s largest public pension systems have made news for non-investment reasons in recent weeks, it was decided to briefly summarize some of these episodes that have brought unfavorable publicity to the public pension world:

The Illinois State Teachers Retirement System has been rocked by charges of kickbacks and inappropriate political influence in the hiring of investment managers. After revelation of payments made in the hiring of one of its alternative investments managers, the system adopted new policies aimed at separating legitimate third party marketing fees from questionable “finders fees” on investments.

The Ohio Teachers Retirement System ousted its executive director for unreasonable spending practices and other ethical violations, including the failure to report the acceptance of gifts from the system’s investment consultant.

The Chairman of the New Hampshire Retirement System was accused of a possible conflict of interest with respect to a stock the system was considering invest-

ing in and was criticized for appearing to solicit, on behalf of the state, a contribution for a non-profit organization from the system’s investment consultant.

A former chairman of the Virginia Retirement System was criticized for authorizing an outsized severance payment for a former employee.

The former chairman of the Ohio Police and Fire Pension board was fined after pleading guilty to accepting improper gifts from vendors.

The Ohio Bureau of Workers Compensation lost money on a number of investments, including a politically connected hedge fund and a rare coin investment run by a political fundraiser.

Former staff and board members of the San Diego (CA) pension fund were accused of improperly approving system-wide benefit increases, leading to the system’s serious under-funded status.

A Denver newspaper ran a series of lengthy, highly critical articles about Colorado’s Public Employees’ Retirement System, focusing on generous “perks” enjoyed by its employees and lavish travel expenses incurred by board members.

Our next report will focus on pure investment issues, but the headlines of the past few months are an admonition to all public fund trustees and staff that it is vitally important to avoid not only acts that are clearly illegal but also those that present the appearance of conflict of interest or impropriety.

PERAC COMMISSIONER MARQUIS’ PUBLIC SERVICE ACCLAIMED IN BOSTON GLOBE

On August 14, 2005, a *Boston Globe* article cited the high esteem in which PERAC Commissioner Donald Marquis—who retired in 2000 after 35 years as Town Manager of Arlington, Massachusetts—is held by those he has mentored. Current and former town managers from Medfield, Brewster, Carlisle, Westford, Lexington, and Abington, Massachusetts have looked to Commissioner Marquis as a professional role model.

Charles Sumner, the Town Manager of Brewster, was quoted in the *Boston Globe* story. “Don was a master of doing a lot with limited resources ... He was so forward-thinking that he was always two or three steps ahead of everyone else.”

Commissioner Marquis has left a legacy from his years as Arlington Town Manager that extends throughout and even beyond Massachusetts. And, PERAC

benefits greatly from his expertise.

In addition to his duties as the representative of the Massachusetts Municipal Association on PERAC, Commissioner Marquis currently serves as an appointee of Governor Mitt Romney on the Massachusetts Civil Service Commission.